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 6 *Attorney for Plaintiff*

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

7 Criminal Productions, Inc., a Nevada )  
 8 corporation, )Case No.: 2:16-cv-01968  
 9 )  
 10 Plaintiff, )ORDER GRANTING PLAINTIFF'S  
 vs. )EX PARTE MOTION FOR LEAVE TO  
 11 DOES 1 – 22 )TAKE LIMITED DISCOVERY PRIOR  
 )TO RULE 26(f) CONFERENCE  
 12 Defendants )  
 \_\_\_\_\_)

13 Pending before the Court is Plaintiff's motion for leave to conduct limited discovery  
 14 prior to the conference required under Rule 26(f) of the Federal Rules of Civil Procedure  
 15 ("FRCP"). Docket No. 3. For the reasons that follow, Plaintiff's motion is GRANTED.

16 Plaintiff alleges that Defendants used BitTorrent, an Internet peer-to-peer file  
 17 sharing network, to illegally reproduce and distribute Plaintiff's copyrighted work in  
 18 violation of the Copyright Act, 17 U.S.C. § 101 et seq. See Docket No. 1 at 3-11. To date,  
 19 Plaintiff can only identify Defendants by the Internet Protocol ("IP") addresses they used  
 20 to allegedly infringe on Plaintiff's copyright. Docket No. 3 at 2. Plaintiff represents that  
 21 Internet Service Providers ("ISPs") maintain logs that record the date, time, and customer  
 22 identity for each IP address assignment they make. *Id.* Plaintiff seeks leave "to serve  
 23 limited, immediate discovery" on the ISPs that own the IP addresses at issue in this case  
 24 in order to ascertain Defendants' true identities. *Id.* In particular, Plaintiff requests leave  
 25 to serve FRCP 45 subpoenas upon Defendants' ISPs and any related intermediary ISPs  
 26 that own the relevant IP addresses, prior to the FRCP 26(f) conference. *See id.*

27 "A party may not seek discovery from any source before the parties have conferred  
 28 as required by Rule 26(f), except in a proceeding exempted from initial disclosure under

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1 Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.”  
 2 Fed.R.Civ.P. 26(d)(1). Courts have adopted a good cause standard to evaluate requests for  
 3 expedited discovery. *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D.  
 4 Cal. 2002). In *Semitool*, the Court found that “[g]ood cause may be found where the need  
 5 for expedited discovery, in consideration of the administration of justice, outweighs the  
 6 prejudice to the responding party. *Id.* “[G]ood cause is frequently found in cases involving  
 7 claims of infringement[.]” *Id.*; see also *Liberty Media Holdings, LLC v. Letyagin*, 2012 WL  
 8 3135671, \*3 (D. Nev. Aug. 1, 2012)

9 The Ninth Circuit has held that where the identity of the defendants is unknown  
 10 prior to the filing of a complaint, the plaintiff should be given opportunity through  
 11 discovery to identify the unknown defendant, unless it is clear that discovery would not  
 12 uncover the identities, or that the complaint would be dismissed on other grounds.  
 13 *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing *Gillespie v. Civiletti*,  
 14 629 F.2d 637, 642 (9th Cir.1980)).

15 For good cause shown, the Court GRANTS Plaintiff’s motion. Docket No. 3. Plaintiff  
 16 may serve Rule 45 subpoenas upon the ISPs and any related intermediary ISPs that own  
 17 the IP addresses at issue in the instant case, prior to the Rule 26(f) conference. The  
 18 subpoenas will demand solely the true name, address, telephone number, e-mail address,  
 19 and Media Access Control address for the account holder to whom the relevant IP  
 20 addresses were assigned at the date(s) and time(s) that the alleged infringement activity  
 21 occurred. Plaintiff will use the information it obtains from the ISPs in response to these  
 22 subpoenas solely to prosecute the claims it has made in the instant case.

23 IT IS SO ORDERED

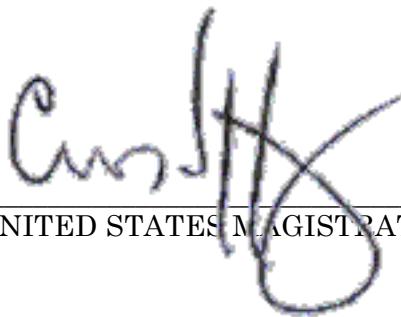
24 DATED: August 23, 2016

25  
 26 Respectfully submitted by.

27 /s/ Charles Rainey

28 CHARLES C. RAINY, ESQ.  
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UNITED STATES MAGISTRATE JUDGE



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